



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,657	12/08/2003	Robert B. Meek JR.	050704/306291	2999
826 7590 12/11/2008 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER SHEIKH, ASFAND M	
			ART UNIT 3627	PAPER NUMBER
			MAIL DATE 12/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/730,657

Applicant(s)

MEEK ET AL.

Examiner

Asfand M. Sheikh

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) 12-24 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☐ Claim(s) 1-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 5/20/04
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

The amendment filed on 10/7/2008 has been entered. The examiner notes claims 1-11 are pending for examination. Further the examiner notes the applicant has elected without traverse to withdraw claims 12-24 based on the restriction requirement dated on 9/30/2008.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frederick et al. (US 6,112,502) in view of Lucas (US 6,996,538 B2).

Claim 1 and 6 and 8

Frederick discloses a method comprising: at a health care facility: generating data representative of dispensed items (see at least, col. 2, lines 29-31); transmitting said data to a central database (see at least, col. 57, lines 4-17); assembling a purchase order from said data (see at least, col. 57, lines 4-17); assembling the items, in each item's manufacturer packaging, identified in said purchase order (see at least, col. 56,

lines 59-col. 57, lines 17); and distributing the assembled items to the healthcare facility (see at least, col. 56, lines 59-col. 57, lines 17).

Frederick fails to disclose a distributor location that can automatically assemble purchase order items and ship the assembled items to the healthcare facility.

However Lucas discloses a distributor location that can automatically assemble purchase order items and ship the assembled items to the healthcare facility (see at least, abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Frederick to include a distributor location that can automatically assemble purchase order items and ship the assembled items to the healthcare facility as taught by Lucas. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide a third party VMI service for a company, because it gains significant buying power which it can use to negotiate better deals, improve supplier responsiveness, and streamline the buying process (see at least, col. 2, lines 35-44).

Claim 2 and 7

Frederick discloses additionally comprising, before transmitting said purchase order, manually reviewing said purchase order (see at least, col. 56, lines 59-col. 57, lines 17).

Claim 3 and 9

Frederick discloses additionally comprising using the shipped items to replenish a restocking location at the health care facility (see at least, col. 56, lines 59-col. 57, lines 17).

Claim 4 and 10

Frederick discloses wherein said assembled items are shipped in a tote, said method additionally comprising marking said tote with a bar code (see at least, col. 57, lines 36-48).

Claim 5 and 11

Frederick additionally comprising notifying the healthcare facility of the bar code and identifying the items in the tote associated with said bar code (see at least, col. 56, lines 59-col. 57, lines 58).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Asfand M. Sheikh/
Examiner, Art Unit 3627
12/8/2008

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627